



OFFICE OF THE CITY ATTORNEY

# **SB 330 (SKINNER) – HOUSING CRISIS ACT**

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## **OVERVIEW**

## PURPOSE

### **Limit cities' and counties' ability to regulate “Housing Developments”**

- ❖ Residential Units Only
- ❖ Mixed-Use with at Least 2/3 sf Residential
- ❖ Affordable Housing & Emergency Shelters

## EFFECTIVE JANUARY 1, 2020...

- *Amend* the **Housing Accountability Act** (Gov't Code § 65589.5)
- *Create* a new **Hearing Procedure** for "Development Projects" (Gov't Code § 65905.5)
- *Amend* the **Permit Streamlining Act** (Gov't Code § 65920 et seq.)
- *Create* the **Housing Crisis Act** (Gov't Code § 66300 et seq.)

# **SUBSTANTIVE CHANGES TO HAA**

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1. Preliminary Application
2. Freeze Zoning Ordinance Regulations

## Preliminary Application (Gov't Code § 65941.1)

- Checklist of information and items to be provided in an application to be “deemed complete”
- Create and post “checklist” and application form on website (default to HCD)
- 30 Days to determine in writing if application is complete (90 to Respond)
- Cannot request information not on the checklist
- Provides the information a city needs to apply objective standards for approval.
  - ❖ “Objective” means involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external uniform benchmark or criterion available and knowable by both the development applicant and the public official.

# Contents of Preliminary Application

- Location
- Project description (site plan, elevation, color, massing, approx. square footage, parking spaces)
- Existing uses on site and number of existing units to be demolished
- Proposed mix of land uses by number and square footage
- Environmental concerns (e.g. wetlands, historic resources on site, flood)
- Number of below market rate units and any density bonus claims

# Vesting (Freezing) Zoning Regulations

**A development project is subject only to the ordinances, regulations, and policies in effect when the complete Preliminary Application was submitted, except ...**

- In the increase of a fee or exaction resulting from an “automatic adjustment” based on an independently published cost index.
- In order to mitigate or avoid a “specific, adverse impact on health and safety.”
- Avoid or substantially lessen impact of the project under CEQA.
- Project has not commenced within 2.5 years following final approval.
- Changes to 20% or more of the number of “residential units” or square footage of construction

# STREAMLINING PROCESS

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1. Gov't Code 65605.5 - The Five Hearing Rule
2. Permit Streamlining Act



## The Five Hearing Rule

If a project complies with applicable objective zoning standards in effect at the time the application is deemed complete then the city **shall not conduct more than 5 hearings in connection with approval** of the Development Project. (Gov't Code § 65905.5)

- ❖ “Deemed complete” means has met all the requirements specified in the list compiled for purposes of § 65940 (Permit Streamlining Act.)
- ❖ “Hearing” means any public hearing, workshop, or similar meeting.

# Permit Streamlining Act Amendments

PSA required lead agency to disapprove a project within 120 days of cert. of an EIR or 90 days if certain “affordability” criteria met but NOW...

- ❖ 120 days to 90 for a development project
- ❖ 90 days to 60 for a project meeting affordability criteria

# HOUSING CRISIS ACT

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Gov't Code § 66300

# Maintaining Density

Prohibits Cities from adopting ordinances or policies (including through initiative or referendum) that would:

1. Change land use designation or zoning to reduce density or intensity of use from that in effect as of January 1, **2018**.
  - ❖ *Unless change in designation or intensity of use occurs concurrent with changes to development standards that result in no net loss in residential capacity.*
2. Impose or enforce “new” design standards not in effect on or after 1/1/2020 that are not “objective.”
3. Impose a moratorium on housing development
4. Establish limits on the number of permits issued

# Tenant Protections

City shall not approve a “Housing Development Project” that will require demo of existing residential units unless...

1. The project creates at least as many units as demolished.
2. Replaces “protected” units.
3. Existing residents allowed to occupy units until 6 months prior to construction.
4. Occupants of protected units:
  - ❖ *Relocation benefits*
  - ❖ *Right of first refusal for comparable affordable unit*

## Protected Units

- Units subject to affordability covenant for lower or very low within the last 5 years
- Units subject to rent control
- **Units that are or were occupied by lower or very low income households within the past five years.**
  - ❖ *Require rent rolls and tenant notification to determine income level*

# QUESTIONS

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